

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Kansas City District
FILE NUMBER: 200401340

REGULATORY PROJECT MANAGER: Douglas Berka **Date:** June 30, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** June 30, 2004
 At the project site (Y/N) **Date:**

PROJECT LOCATION INFORMATION:
 State: Kansas
 County: Johnson
 Center coordinates of site by latitude & longitudinal coordinates: Lat. 38-53-50.6 ; Long. 94-51-12.9
 Approximate size of site/property (including uplands & in acres): 11 acres
 Name of waterway or watershed: Tributary to Cedar Creek

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)	X								
Small Farm Pond									

¹ Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?	X				
Is or would be used as habitat for endangered species?		X			
Is used to irrigate crops sold in interstate commerce?		X			

¹ Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): The consultant delineated a 0.10-acre wetland and pond on an 11-acre site. He has supplied photographs of the drainage swale both upstream and downstream of the pond. No ordinary high water mark is present in either location. The ordinary high water mark is evident about 200 feet downstream of the pond dam. This portion of the stream channel has been determined to be jurisdictional. However, the wetland is considered isolated and not adjacent and therefore non-jurisdictional. (NE ¼, NE ¼, Sec. 28, T. 13 S., R. 23 E., Johnson Co., KS)